



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,707	04/05/2001	Rolf Kocheisen	AUS9-2000-0930-US1	3965

7590 04/30/2004

Volel Emile
International Business Machines Corporation
Intellectual Property Law Department
Internal Zip 4054, 11400 Burnet Road
Austin, TX 78758

EXAMINER

MILLER, BRANDON J

ART UNIT	PAPER NUMBER
----------	--------------

2683

DATE MAILED: 04/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/826,707

Applicant(s)

KOCHEISEN, ROLF

Examiner

Brandon J Miller

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5, 8-14, 17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5, 8-14, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 9
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 2683

DETAILED ACTION

Response to Amendment

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 8-9, 11-12, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Byrne in view of Wenk.

Regarding claim 5 Byrne teaches a wireless telephone system: comprising a mobile wireless telephone member (see col. 5, lines 22-23 & 30-31). Byrne teaches short-range radio frequency communication means for transmitting and receiving communications over short range (see col. 5, lines 30-35 & 56-58); and long-range radio frequency communication means for transmitting and receiving communications over a long range (see col. 5, lines 45-49 & 59-61). Byrne teaches a cordless base member, wired into a wired telephone network, for receiving and transmitting from and to a mobile wireless member over short range (see col. 5, lines 22-32). Byrne teaches stationary communication means for respectively receiving and transmitting to and from a mobile wireless member over a long range (see col. 5, lines 45-49). Byrne teaches means responsive to the initiation of a telephone call for first determining whether a short range radio frequency communication from a cordless base member is available for the mobile member; and means responsive to a determination that the communication from the base member is not available for the mobile member then automatically switching to long range radio

Art Unit: 2683

frequency communication with the mobile member through the wireless telephone area base station (see col. 7, lines 6-8 & 22-28). Byrne does not specifically teach transmitting and receiving voice data. Wenk teaches transmitting and receiving voice data (see col. 6, lines 1-4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include transmitting and receiving voice data because this would allow for improved integration between wireless and landline telephone service.

Regarding claim 8 Byrne teaches stationary communication means for respectively receiving and transmitting to and from a mobile wireless member over long range that includes a wireless telephone area base station wired into a wired telephone network (see col. 5, lines 44-49).

Regarding claim 9 Byrne teaches communicating with a mobile wireless telephone member through a wireless telephone area base station whenever short-range communication is unavailable (see col. 7, lines 22-27 and Fig. 3).

Regarding claim 11 Byrne teaches a wireless telephone system that is a cellular phone system, and the telephone base station area is in an area cell within the cellular system (see col. 2, lines 10-16 and col. 5, lines 46-48).

Regarding claim 12 Byrne teaches enabling a telephone user to switch between short range and long-range communication means when short range is available (see col. 3, lines 20-25).

Regarding claim 14 Byrne teaches a wireless telephone system: comprising a mobile wireless telephone member (see col. 5, lines 22-23 & 30-31). Byrne teaches short range radio frequency communication means for transmitting and receiving communications over short

Art Unit: 2683

range (see col. 5, lines 30-35 & 56-58); and long range radio frequency communication means for transmitting and receiving communications over a long range (see col. 5, lines 45-49 & 59-61). Byrne teaches stationary communication means for receiving and transmitting from and to a mobile wireless member over short range (see col. 5, lines 22-32). Byrne teaches stationary communication means for respectively receiving and transmitting to and from a mobile wireless member over a long range (see col. 5, lines 45-49). Byrne teaches a method for determining whether communication will be short range or long range comprising: responsive to the initiation of a telephone call for first determining whether a short range radio frequency communication from stationary communication means for receiving and transmitting from and to the mobile wireless member is available for the mobile member; and means responsive to a determination that the communication from the stationary communication means over short range is not available for the mobile member then automatically switching to long range radio frequency communication with the mobile member through the stationary communication means for long range communications (see col. 7, lines 6-8 & 22-28). Byrne does not specifically teach transmitting and receiving voice data. Wenk teaches transmitting and receiving voice data (see col. 6, lines 1-4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include transmitting and receiving voice data because this would allow for improved integration between wireless and landline telephone service.

Regarding claim 17 Byrne teaches a device as recited in claim 12 and is rejected given the same reasoning as above.

Art Unit: 2683

Claims 13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Byrne in view of Wenk and Lewis.

Regarding claim 13 Byrne and Wenk teach a device as recited in claim 12 except for tracking the respective times of telephone communications through short range and long-range means. Byrne does teach communication through short range and long-range means and selecting the cheapest system to operate on (see col. 3, lines 15-17 and col. 5, lines 30-32 & 46-49). Lewis teaches tracking respective times of telephone communications (see col. 9, lines 40-41 & 62-63). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include tracking the respective times of telephone communications through short range and long range means because this would allow for an efficient monitoring of the duration and timing of cellular calls and cordless calls.

Regarding claim 18 Byrne and Wenk teach a device as recited in claim 17 except for tracking the respective times of telephone communications through short range and long range whereby telephone usage may be billed at different rates. Byrne does teach communication through short range and long-range means and selecting the cheapest system to operate on (see col. 3, lines 15-17 and col. 5, lines 30-32 & 46-49). Lewis teaches tracking respective times of telephone communications (see col. 9, lines 40-41 & 62-63). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include tracking the respective times of telephone communications through short range and long range whereby telephone usage may be billed at different rates because this would allow for an efficient monitoring of the duration and timing of cellular calls and cordless calls.

Response to Arguments

Art Unit: 2683

Applicant's arguments with respect to claims 5, 8-14, and 17-18 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schellinger U.S. Patent 5,842,122 discloses an apparatus and method for alternative radio telephone system selection.

Rousseau et al. U.S. Patent 6,141,547 discloses radio telecommunications system having a mobile terminal that operates both in cellular mode and in cordless mode.

Gillig et al. U.S. Patent 6,141,560 discloses a communication device providing dual mode operation.

Art Unit: 2683

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon J Miller whose telephone number is 703-305-4222. The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 27, 2004


WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600